

REMARKS

In the Office Action mailed June 26, 2007, the Examiner noted that claims 1-32 were pending, and rejected all claims. Dependent claim 13 has been amended and, thus, in view of the forgoing claims 1-32 remain pending for reconsideration which is requested. No new matter has been added. The Examiner's rejections and objections are traversed below.

CLAIM OBJECTIONS

In the Office Action, at page 2, numbered paragraph 3, claims 1, 19-21 and 32 are objected to "because 'the graphical user interface' as recited in claims 1, 19-21 and 32 may possibly be construed as software, per se." Claim 13 is objected to because of informalities.

With respect to the objection to claims 1, 19-21 and 32, the Examiner is requested to note: control - "In a graphical user interface, an object on the screen that can be manipulated by the user to perform an action." Microsoft Computer Dictionary ©1999. The objection to claims 1, 19-21 and 32 is traversed as these claims qualify as claiming a useful "manufacture" under 35 USC 101.

Claim 13 has been amended as suggested by the Examiner and entry thereof is requested (see MPEP 714.13 and the discussion of adopted suggestions).

Accordingly, it is respectfully requested that the objections to the above claims be withdrawn.

REJECTION UNDER 35 U.S.C. §103:

In the Office Action, at pages 2-7, numbered paragraph 6, claims 1-4, 7, 9-12, 14-18 and 20-21 were rejected under 35 U.S.C. §103 over Strauss, US Patent No. 6,246,411 B1 in view of Selker, US Patent No. 6,549,219 B2. The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

The Examiner, as noted on page 4 of the Action, bases the rejection motivation for a combination of Straus with Selker on boiler plate language in Strauss "that various modifications may be made without departing from the spirit and scope of the invention." However, no modifications are suggested by Strauss that would accomplish the invention as admitted by the Examiner ("However, Strauss fails to expressly teach that the first function is an entire peripheral region of the control and the second function activatable in a central region of the

peripheral region of the control and the second function activatable in a central region of the control and that the movable control having an external edge where the external edge is coincident with a tracking boundary.") The Examiner's rational is contradicted by the Examiners own admission (Strauss suggests "various modifications can be made" but admittedly makes no such suggestion).

The same flawed rational is used again on page 8 of the Office Action.

The Examiner's basis for the motivation for the combination of the rejection is also "The motivation is provide a user with a visual cue as to what the tracking boundary is so that the user may [use] the tracking menu more efficiently." (see Action pages 4, 8 and 18) assumes that the "'follow-me' zone 42" as depicted in figure 7 and discussed at col. 7, lines 63-67 is invisible. It is suspected that the Examiner makes this assumption because a dashed line is used to show the zone 42 in figure 7. However, a dashed line is a visible thing in Strauss.

Figure 1B shows the frame 5 with a dashed line and Straus states:

FIG. 1B shows that selecting the graphic image 2 results in a visual change in the appearance of the graphic image 2 to indicate that it has been selected, and drawing of a frame 5 around the graphic image 2 to indicate the bounds of the graphic image 2.

(See Strauss, col. 3, lines 46-51)

In addition, a move control button 9 within the drag toolbar 7 of figure 1B also shows a dashed line, corner folded page. The dashed line it is clearly intended to be visible as it depicts, in relation to the a solid line corner folded, page a drag operation indicated by an arrow. Further, the dashed line 3 of figure 1 is described as "the indicated drop spot". To describe the dashed line object as an indicated object appears to mean that it is also a visible object. So, apparently the follow me zone dashed line 42 is intended to be a visible dashed line. As a result, in Strauss the user does have a visible cue as to the tracking boundary. Thus, the Examiner's basis for the motivation (provide a visible cue) is without a foundation as Strauss provides such a visible cue.

At the very least, Strauss is ambiguous about whether the follow-me zone dashed line is visible or not. Motivation for a modification of a reference cannot be based on an ambiguous reference at the feature critical to the alleged motivation. For this reason, the rejection should be withdrawn.

Additionally, with the follow-me zone 42 of Straus being visible and located far from the menu 40, this teaches away from having a boundary coincident with the menu outer edge. Further, as discussed below Strauss provides a rationale for the location of the zone 42 being far from the menu which further teaches away from zone 42 coincident with the menu outer edge.

The Examiner interprets the follow me zone 42 as the edge of the menu. As noted above, this is contrary to the problem being addressed by Strauss. Further, if Strauss intended this then why is the menu (the drag tool bar as noted by the Examiner) provided with a separate reference number. If they were intended to be the same, then why use different reference numbers. In making this interpretation the Examiner appears to be completely ignoring the author who labeled them separately. Additionally, this is contradictory to the explicit teachings of Straus. With respect to the relationship between the menu (drag tool bar) and the follow-me zone, Straus states:

In yet another embodiment of the invention, shown in FIG. 7, a Drag Toolbar 40 is initially displayed in reasonably close proximity to the cursor 4 but has a "follow me" zone 42 which **defines** the bounds of a region **around** the Drag Toolbar 40. If the cursor 4 is within the bounds of the "follow me" zone 42, the Drag Toolbar 40 does not move. However, if the cursor 4 attempts to move past the "follow me" zone boundary 42, the Drag Toolbar 40 follows the cursor across the user's display.

(See Strauss, col. 6, lines 59-67, emphasis added)

If Strauss had intended to make the boundary of the drag tool bar and the follow me zone 42 coincident, it would have been a mere matter of not including three words: "a region around". By eliminating or ignoring this definitional requirement of Straus, the Examiner is rewriting Strauss. Strauss explicitly teaches away from the idea of a menu boundary and a follow-me boundary being coincident.

Strauss is directed to a way of simplifying drag operations by **displaying a menu only after an object is dragged** that provides a user with program specific options related to the dragged object, such as moving or copying the object. Selker is directed to multiple level pie menus.

Those involved in the graphical related industries are required to make many trips and switches between toolbars during graphical design which can be difficult and time consuming. The present Application discloses an easily accessible, always available pan-zoom tool that is

unrelated to dragging an object, which is capable of constantly tracking a cursor for use on a tablet PC, PDA, touch screen, etc. Such a device may have a small screen or even lack a keyboard, and as a result, lack the ability to utilize keyboard shortcut quick tool switches. In addition, on PC workstations that may extend over multiple displays, multiple tools essential for use of advanced graphical programs may be spread out on multiple displays and require time consuming mouse trips to traverse and change between tools. This Application eliminates time consuming mouse trips and mouse clicks. This problem and solution are not addressed by Strauss or Selker.

In col. 3, lines 54-59, Strauss discusses and discloses that the "Drag Toolbar" is displayed at the commencement of the drag operation, when the cursor passes over a static icon, or if the cursor stops moving. In other words, the cited art requires dragging, passing over a static icon, or ceasing movement of the cursor for the Drag Toolbar to display. There are major differences between the prior art and the claims at issue because Strauss does not solve the problem addressed in the current Application such as the inability and difficulty of using menu driven software such as graphical programs on cramped workspaces on tablet PCs or PDAs and extremely large multi-display workstations.

Col. 8, lines 11-17 refer to the principal advantages of Strauss:

[Strauss] provides an unambiguous way for a user to change the functionality of a cursor **during a drag operation**. Thus, a user need not memorize different keyboard combinations, as in the prior art. Further, the graphical user interface is not cluttered, since a **Drag Toolbar only appears when a drag operation is initiated**.

In other words, the Drag Toolbar is dependent upon a drag operation, unlike the user interface claimed in claim 1 which is readily available for the user.

The purpose of having the two boundaries in Strauss, as disclosed in col. 1, lines 18-col. 2, line 15, is to allow a separate selection and dragging, to prevent inadvertent activations and to allow the user the dragging space between the two boundaries as a region in which to decide what to do with the dragged object ("can be changed"), such as move or copy, rather than simply use the default dragging function or have to memorize differing options as provided by specific and confusing default dragging options as provided by Microsoft Windows, Microsoft Word or Adobe Framemaker which differ by program and which are not "particularly intuitive."

In the Office Action at page 3, it is admitted that Strauss

does not expressly teach that the second region control having an outer edge and that the tracking boundary is coincident with the outer edge.

The Office Action only refers to Fig. 1 of Selker, fails to cite or reference anything else in Selker and swiftly jumps to a conclusion that

it would have been obvious to one [skilled] in the art, at the time the invention was made, to combine the pie menu graphical user interface as taught by Selker with the drag toolbar as taught by Strauss to create a user interface where the second region control having the outer edge and initiating the second function. In addition, it would have been obvious to one [skilled] in the art, at the time the invention was made, to implement the limitation of the tracking menu boundary being coincident with the outer edge because Strauss suggests to the [skilled] artisan that a **circular drag toolbar** can be implemented using the [disclosed] invention...The motivation is provide a user with a visual cue as to what the tracking boundary is so that the user may [use] the tracking menu more efficiently.

Although the tracking menu boundary has the same shape as the circular menu in Fig. 3A of Strauss or the pie menu in Fig. 1 of Selker, this does not infer or imply that Strauss inherently teaches that the two boundaries can be modified to be made coincident. Straus says nothing about making them coincident. In addition, as noted in col. 5, lines 17-34 of Selker, the circular shape is not important, and merely a design choice. As depicted in Fig. 7, both boundaries are clearly not coincident. In addition, the background discussion, col. 1, lines 44-46 teaches away from accidental selection of an object intended to only be dragged. By making both boundaries coincident, this does not solve this problem addressed in Strauss. In other words, one skilled in the art would not be motivated to modify Strauss in such a way as described in the Office Action because making both boundaries coincident is contrary to the express teachings found in Strauss.

As a result, there is no apparent or clearly explained reason to combine Strauss and Selker and the rejection of claim 1 was merely a conclusory statement. See *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006), ("[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.") It is submitted that only the template provided by the claims themselves made the combination of these references

seem obvious to the Examiner. See *W.L. Gore & Assocs., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1553; 220 USPQ 303, 312-13 (Fed. Cir. 1983) ("To imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher").

Further, the assertion by the Examiner of: "The motivation is provide a user with a visual cue as to what the tracking boundary is so that the user may [use] the tracking menu more efficiently." is an assertion based on hindsight. Nowhere does the prior art teach or mention at all a need for much less a benefit for a coincidence between a menu boundary and a tracking menu boundary. The conclusory statement by the Examiner is submitted to be without foundation or support.

In *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 127 S.Ct 1727, 167 LEd2d 705 (U.S. 2007), the U.S. Supreme Court held that in determining obviousness, one "must ask whether the improvement is more than the predictable use of prior art elements **according to their established functions**" slip op. 13, 82 USPQ2d at 1396. Furthermore, it is necessary "to determine whether there was an apparent reason to combine the known elements in the fashion claimed" slip op. 14, 82 USPQ2d at 1396.

In rejecting claim 1, the only reason given for combining Strauss and Selker is the "motivation" to "provide a user with a visual cue as to what the tracking boundary is so that the user may [use] the tracking menu more efficiently." It is submitted that this reason is insufficient to answer the question posed by *KSR v. Teleflex*, i.e., whether these claims recite a predictable use of established functions of the devices disclosed in Strauss and Selker. Strauss is directed **only toward drag operations**, while Selker is directed toward pie menu graphical interfaces. It is submitted that "a first region control," "a second region control," and "a tracking menu boundary surrounding the first and second region controls and coincident with the outer edge" is not a predictable use of established functions known in the prior art, nor do these references provide "an apparent reason to combine the known elements in the fashion claimed" as required by *KSR v. Teleflex*. As disclosed in the present Application in paras. [0044] and [0053], when the tool is not pinned or locked, the user need not know where the tracking boundary is located. The tool will follow an input transducer and relocate and be redrawn according to where the

input transducer is currently hovering within range over a tablet PC or where a cursor is located on a PC and need not have any visual cue as to where the tool is located.

Further, the apparent rational for obviousness is that Selker discloses a pie menu with an "outer edge" and, apparently, somehow this suggests that a tracking menu boundary should be coincident with such an outer edge. Selker says nothing about where the pie menu is located much less anything about tracking menus or boundaries.

Strauss is admitted to say nothing about a second region control having an outer edge with a tracking boundary coincident therewith (see Action page 3) and Selker also says nothing.

In addition, it is noted that both the menu 40 of Strauss (that includes the distant visible follow-me boundary 42) also has an outer edge. The combination of the visible distant follow-me boundary 42 of Strauss with the pie menu having an outer edge of Selker, assuming for arguments sake that they could be combined, would produce a pie menu with a far distant follow-me boundary and would not produce a menu with an outer edge coincident with a tracking boundary. Nor would the combination suggest such.

In conclusion, Applicants respectfully submit that a *prima facie* case of obviousness can not be based upon Strauss and Selker, because Strauss and Selker and any combination thereof fail to disclose or suggest the claimed:

- a first region control initiating a first function when activated;
- a second region control associated with the first region control having an outer edge and initiating a second function;
- a tracking menu boundary surrounding the first and second region controls and coincident with the outer edge; and
- a tracking symbol tracking a position of a position transducer moved by a user, movable within the first and second region controls, initiating movement of the interface to track the tracking symbol when the boundary is encountered by the tracking symbol during movement of the tracking symbol and indicating event focus for activating and performing the first and second functions.

Accordingly, Applicants respectfully submit that claim 1 patentably distinguishes over the cited references.

Further, Strauss is directed dragging. As a result, the follow-me discussed at col. 6, lines 59-67 is active only when the dragging operation is itself active (see Abstract). In

contrast, the moving of claim 1 is "when the tracking symbol encounters the boundary while moving" (claim 1). Selker does not address this. For this additional reason, the rejection should be withdrawn.

Claim 20 was rejected upon the same grounds as claim 1. This rejection is respectfully traversed. Applicants respectfully submit that a *prima facie* case of obviousness can not be based upon Strauss and Selker, because Strauss and Selker and any combination thereof fail to disclose and suggest the claimed:

a movable control having a first function activatable in an entire peripheral region of the control and a second function activatable in a central region of the control having an exterior edge; and

a tracking symbol movable within the control and moving the control when the exterior edge of the peripheral region is encountered.

Therefore, Applicants respectfully submit that claim 20 patentably distinguishes over the cited art.

Claim 21 was rejected upon the same grounds as claim 1. This rejection is respectfully traversed. Applicants respectfully submit that a *prima facie* case of obviousness can not be based upon Strauss and Selker, because Strauss and Selker and any combination thereof fail to disclose and suggest the claimed:

a tracking menu having a first function activatable in an entire peripheral region of the menu and having an exterior edge, a second function activatable in a central region of the menu and a tracking symbol tracking a position of a user positionable input transducer and causing the menu tool to move when the exterior edge is encountered.

Therefore, Applicants respectfully submit that claim 21 patentably distinguishes over the cited art.

Dependent claims 2-4, 7, 9-12, and 14-18 recite patentably distinguishing features of their own or are at least patentably distinguishing due to their dependence upon claim 1.

The dependent claims also are independently patentable. For example, the Examiner rejects claim 4 and asserts that Selker at col. 4, line 62-col. 5, line 3 teaches the second control is a most frequently used function. This text of Selker states:

FIG. 7 illustrates a reverse hierarchical multiple level menu system with mixed second and third levels of granularity. In this alternative embodiment, the general guidelines for menu item placement within the concentric levels is reversed from that described heretofore. Level 1 menu items are placed in the outermost ring. A general heading item 71 is placed in the outer ring. Within the common sector of 71 is placed level two menu items 72 and 73 and level 3 menu items 74, 75, and 76.

(See Selker, col. 4, line 62-col. 5, line 3)

This text says nothing about most frequently used. The Examiner is reading something into Selker that is not there.

As another example, the Examiner rejects claims 11, 12 and 14 that call for a "button" control along with the ring controls. The Examiner points to figure 6 of Selker. This figure shows segmented rings not buttons.

Claims 22-24, 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strauss in view of Warnock et al. US Patent No. 5,634,064.

The rejection of claim 22 is respectfully traversed. In a non-limiting example, as set forth in claim 22, a method is taught which provides a user with a tracking menu with pan and zoom tools which follows the user's input transducer when the edge of the menu is encountered, causing the menu to move when the exterior edge is encountered.

The Office Action, at page 8, alleges that Warnock, at col. 10 lines 20-35 and Fig. 4a:

teaches a user interface having a toolbar menu where the toolbar menu includes pan and zoom operation that when selecting one of the pan and zoom operation causes the selected operation to be performed.

As a result, the Office Action alleges that it would have been obvious to combine Warnock and Strauss to implement a tracking menu with pan and zoom "because Strauss suggests to the [skilled] artisan that various modifications may be made without departing from the spirit and scope of the invention and that the [disclosed] **drag toolbar** can be used for other applications as well. As explained above, Strauss is directed toward a drag toolbar that is **only displayed after a drag operation**, and thus, Applicants respectfully submit that a *prima facie* case of obviousness can not be based upon Strauss and Warnock, because Strauss and Warnock and any combination thereof fail to disclose and suggest the claimed:

displaying a pan-zoom tracking menu tool having an exterior edge;

allowing a user to select pan and zoom operations using the tracking menu tool and an input transducer; and
performing a selected one of the pan and zoom operation responsive to movements of the input transducer by the user and causing the menu to move when the exterior edge is encountered.

The selection of pan or zoom in Warnock is via a menu bar as acknowledged by the Examiner not by "using the tracking menu tool" as called for in this claim. Therefore, Applicants respectfully submit that claim 22 patentably distinguishes over the cited art.

The rejection of claim 29 is respectfully traversed. In a non-limiting example, as set forth in claim 29, an apparatus is taught which contains a display, an input transducer in the form of a pen or stylus, and a computer which provides a user with a pan/zoom tool housed in a tracking menu which moves and is redrawn while following the stylus when the stylus encounters an edge of the menu.

Claim 29 "is rejected along the same rationale." As explained above, Strauss is directed toward a drag toolbar that is **only displayed after a drag operation**, and thus, Applicants respectfully submit that a *prima facie* case of obviousness can not be based upon Strauss and Warnock, because Strauss and Warnock and any combination thereof fail to disclose and suggest the claimed:

a display;
a pen type input transducer; and
a computer coupled to the display and transducer and providing a pan-zoom tracking menu on the display and allowing a user to select and perform pan and zoom operations using the transducer input and moving the menu when an outer edge of the menu is encountered.

Again, it is the tool menu that is sued for selection in this claim and not a separate menu bar as in Warnock. Therefore, Applicants respectfully submit that claim 29 patentably distinguishes over the cited art.

Dependent claims 23, 24, and 28 recite patentably distinguishing features of their own or are at least patentably distinguishing due to their dependence upon claim 22.

Claims 5, 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strauss in view of Selker further in view of Warnock.

The rejection of claim 30 is respectfully traversed. In a non-limiting example, as set forth in claim 30, a computer readable storage is taught controlling a computer via a tracking menu with a center and a surrounding ring with pan/zoom operability found in the menu that interprets input from a transducer that also moves and is redrawn by following the transducer when it encounters an edge of the menu. The rejection combines the teachings of Strauss, Selker, and Warnock and is based on “the same reasons as discussed with respect to claim 1 above” and “the same reasons as discussed with respect to claim 22 above.” Claim 22 is rejected only under Strauss and Warnock, and as a result, there is a conclusory disconnect here because no reasoning was provided as to why it would be obvious to combine these three references.

In addition, Strauss is directed toward a drag toolbar that is **only displayed after a drag operation**, and thus, Applicants respectfully submit that a *prima facie* case of obviousness can not be based upon Strauss, Selker, and Warnock, because Strauss, Selker, and Warnock and any combination thereof fail to disclose and suggest the claimed:

computer readable storage controlling a computer via a pan-zoom tracking menu having the appearance of a center and a surrounding ring and interpreting transducer input events as pan and zoom selection and control events and interpreting transducer motion as a menu move event **when an outer edge of the menu is encountered**.

Therefore, Applicants respectfully submit that claim 30 patentably distinguishes over the cited art.

The rejection of claim 31 is respectfully traversed. In a non-limiting example, as set forth in claim 31, a computer readable storage is taught controlling a computer via a tracking menu with a center and a surrounding ring with pan/zoom operability that interprets input from a pen that also moves and is redrawn by following the pen when the pen encounters an edge of the menu. Strauss is directed toward a drag toolbar that is **only displayed after a drag operation**, and thus, Applicants respectfully submit that a *prima facie* case of obviousness can not be based upon Strauss, Selker, and Warnock, because Strauss, Selker, and Warnock and any combination thereof fail to disclose and suggest the claimed:

computer readable storage controlling a computer by producing a graphical user interface on a display that has an appearance of a center and a surrounding ring graphic, moving the graphic on the display as a tracking menu responsive to movement of a pen **when an outer edge of the surrounding ring graphic is encountered**, and interpreting input events initiated by the pen as pan and zoom selection and control events.

Therefore, Applicants respectfully submit that claim 31 patentably distinguishes over the cited art.

The rejection of claim 32 is respectfully traversed. In a non-limiting example, as set forth in claim 32, a graphical user interface with a tracking menu is taught that has a zoom control and pan control surrounding the zoom, the menu capable of movement when the areas outside the menu is about to be reached. As stated above, Strauss is directed toward a drag toolbar that is **only displayed after a drag operation**, and thus, Applicants respectfully submit that a *prima facie* case of obviousness can not be based upon Strauss, Selker, and Warnock, because Strauss, Selker, and Warnock and any combination thereof fail to disclose and suggest the claimed:

a pan-zoom tracking menu having a zoom control in a center and a pan control surrounding the zoom control and with the tracking menu moving **when an area immediately outside the menu is about to be reached**.

Therefore, Applicants respectfully submit that claim 32 patentably distinguishes over the cited art.

Dependent claim 5 recites patentably distinguishing features of its own or is at least patentably distinguishing due to its dependence upon claim 1.

The dependent claims are also separately patentably distinguishable. For example, claim 23 calls for a replacement of the symbol icon. the Examiner appears to point to Strauss at col. 6, lines 47-67. This text states:

A Drag Toolbar may be displayed in a fixed position at each invocation, which has the advantage of allowing a user to always look in the same place for control buttons to change the drag functionality of the cursor. In this case, the Drag Toolbar generally would be drawn outside of the current work area, if possible. Alternatively, the Drag Toolbar may be implemented as a floating palette initially positioned near the cursor when the user initiates a drag and drop operation. This has the advantage of putting the Drag Toolbar in close proximity to the cursor if the user wants to change the drag functionality of the cursor at the outset of such an operation.

In yet another embodiment of the invention, shown in FIG. 7, a Drag Toolbar 40 is initially displayed in reasonably close proximity to the cursor 4 but has a "follow me" zone 42 which defines the bounds of a region around the Drag Toolbar 40. If the cursor 4 is within the bounds of the "follow me" zone 42, the Drag Toolbar 40 does not move. However, if the cursor 4 attempts to move past the "follow me" zone boundary 42, the Drag Toolbar 40 follows the cursor across the user's display.

(see Strauss, col. 6, lines 47-67)

This text says nothing about icon replacement.

Claims 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strauss in view of Warnock further in view of Mullet et al. US Patent No. 5,638,523.

Dependent claims 25 and 26 recite patentably distinguishing features of their own or are at least patentably distinguishing due to their dependence upon claim 22.

In addition these claims are independently patentable. Claim 25 calls for "designating" and axis "responsive to initial movement". The Mullet slider axis is always the same (vertical) so there is no designating of the axis.

In addition, at the bottom of page 12, the Office Action references "Dow," but Dow is not cited anywhere in the Office Action (except in the Response to Applicant's arguments which rendered Dow moot).

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Strauss in view of Warnock further in view of Selker. This rejection is traversed for the same reasons as provided above for claim 30.

Claims 6, 13 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strauss in view of Selker further in view of Warnock and further in view of Nicholas, III, US Patent No. 6,865,719.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Strauss in view of Selker further in view of Nicholas.

Dependent claim 8 recites patentably distinguishing features of its own or is at least patentably distinguishing due to its dependence upon claim 1.

CONCLUSION:

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited. At a minimum, this Amendment should be entered at least for purposes of Appeal as it either clarifies and/or narrows the issues for consideration by the Board.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited and possibly concluded by the Examiner contacting the undersigned attorney for a telephone interview to discuss any such remaining issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: October 12, 2007

By: J. Randall Beckers
J. Randall Beckers
Registration No. 30,358

1201 New York Avenue, N.W.
Suite 700
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501